

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DAVID MITCHELL KNIBBS,

Plaintiff,

v.

CAROLYN W. COLVIN,

Commissioner of Social Security,

Defendant.

Case No. 6:11-cv-06208-JE

ORDER

Michael H. Simon, District Judge.

Before the Court is Plaintiff's submission (Dkt. 85), which the Court construes as a motion for declaratory relief seeking a declaration that Plaintiff's Notice of Appeal in this case was timely filed. The Court finds that Plaintiff's Notice of Appeal was constructively filed on July 16, 2014. *See, e.g., Cintron v. Union Pac. R.R. Co.*, 813 F.2d 917 (9th Cir. 1987); *GBJ, Ltd. v. Redman*, 521 F. Supp. 2d 1000 (D. Ariz. 2007). Accordingly, the Court finds that Plaintiff's Notice of Appeal was timely filed.

Plaintiff submitted evidence that on July 15, 2014, he sent his Notice of Appeal via U.S. certified mail to the courthouse in Eugene, Oregon, for filing. The certified mail envelope was delivered on July 16, 2014. Although Defendant correctly points out that Plaintiff erroneously

addressed the certified mail envelope to Suite 1200, which is the U.S. Marshals' office, instead of Suite 2100, which is the Court filing intake desk, the Court finds this transposition of numbers in addressing mail to be filed with the Clerk of the Court to be reasonably foreseeable for a *pro se* party and that it does not preclude the application of the constructive filing doctrine.

Accordingly, Plaintiff's Notice of Appeal is deemed to have been timely filed on July 16, 2014.

CONCLUSION

Plaintiff's Notice of Appeal is deemed to have been timely filed on July 16, 2014. The Clerk of the Court is instructed to docket Page 8 of Docket 85 as Plaintiff's Notice of Appeal. The Clerk of the Court is further ordered to add to the docket text when docketing Plaintiff's Notice of Appeal the following: "Notice of Appeal. Deemed timely filed on July 16, 2014." This is to provide notice to the U.S. Court of Appeals for the Ninth Circuit that although the Notice of Appeal is being docketed now, it is deemed to have been timely filed in 2014.

IT IS SO ORDERED.

DATED this 6th day of April, 2016.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge